

IN THE UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEW JERSEY

FILED  
JEANNE A. NAUGHTON, CLERK

DEC 23 2022

U.S. BANKRUPTCY COURT  
TRENTON, NJ  
BY Z. Naughton DEPUTY

In re:

BLOCKFI INC., et al.

Debtors.

Chapter 11

Case No. 22-19361-(MBK)

(Jointly Administered)

**HEARING DATE AND TIME:**

**January 9, 2023, at 10:00 a.m. (EST)**

**OBJECTION TO ENTRY OF DEBTORS' MOTION TO**

**UPDATE THE USER INTERFACE AND RECONCILE BLOCKFI ACCOUNTS AS OF**

**PLATFORM PAUSE TIME STAMP**

COMES NOW, the Creditor, Andre Paim Carollo dos Santos (BlockFi Email: apaimcar@gmail.com), acting pro se on his own behalf, hereby move the Honorable Court in the matter of the aforementioned case, and strongly object to the Debtors' motion dated December 19, 2022 (Debtors' Motion) to update the User Interface as of "Platform Pause Time Stamp" and reconcile user BlockFi Interest Accounts and Wallets to that particular time stamp on the following grounds:

1.) **Equitable Doctrine of Promissory Estoppel:** The “Platform Pause Time Stamp” is defined in the Debtors’ Motion (**Exhibit A**) to be November 10, 2022, 8:15 PM EST, based on their Twitter Post’s Time Stamp (**Exhibit B**). The Debtors made multiple clear public representations to the contrary on the same Twitter Platform earlier the same day on November 10, 2022 at around 9:00 AM EST that any reasonable person would have relied upon to their detriment that all of their transactions will continue and be fully operational—including on November 11, 2022 (**Exhibit C and Exhibit D**). This will unconscionably prejudice any reasonable BlockFi user who would have planned ahead to make a transfer to their BlockFi Wallet on November 11, 2022, or later in the day on November 10, 2022. BlockFi cannot rely on their own public misstatements and misrepresentations to deprive BlockFi users of the funds which are fully and rightfully owned by them in the BlockFi Wallet per BlockFi’s own Wallet Terms of Service.

2.) **Clear and willful Fraud and Misrepresentation:** BlockFi clearly publicized on their FAQs (Frequently Asked Questions) on November 23, 2022 that users can continue to check their ACCURATE account balances through the BlockFi portal (**Exhibit E**). This public statement by BlockFi contradicts and makes it clear there is absolutely no basis for BlockFi’s claim in the Debtors’ Motion dated December 19, 2022 (**Exhibit A, S.3**) that the Platform Pause took effect at the time when BlockFi posted the Twitter Post on November 10, 2022 at 8:15 PM. Hence, contrary to the motion, there is no need or legal basis for reconciling Wallet and BlockFi Interest Account balances as of the “Platform Pause Time Stamp”.

In addition, BlockFi makes a clear distinction between “Withdrawals” and “Transfers” in their User Interface itself (**Exhibit F**). Per their Twitter Post on November 10, 2022 at 8:15 PM, they clearly speak only about “Withdrawals” which means a withdrawal to an external wallet or bank (**Exhibit B**). “Transfers”, which means an internal transfer between BlockFi accounts, are not even referenced in that post. Further, “Twitter” as a word does not even occur or feature on BlockFi’s terms of service, let alone be a formal means of communicating with BlockFi users. Indeed, only “email” as a means of electronic communication with BlockFi users is expressly mentioned in BlockFi’s terms of service (**Exhibit G**).

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Consistent with the equitable principle that “Equity regards as done what ought to be done” and the principle that the Court does not aid a party (BlockFi) that doesn’t come with clean hands, the displayed Wallet balances for the users must be regarded as true and effective as of November 23, 2022.

3.) **Insufficient and inadequate Notice:** BlockFi, over the ordinary course of business, officially communicates with BlockFi users using their registered email address for all account related matters, which is used by BlockFi users to log into their BlockFi accounts and submit support-related tickets. BlockFi users aren’t required to have a Twitter account, nor can they be expected to use or follow that particular social media platform to receive updates for their accounts. The so-called “Notice” by BlockFi of pausing of user withdrawals through Twitter is grossly inadequate and insufficient. BlockFi, contrary to its own earlier representation on Twitter, sent out a formal notice of pause in user

withdrawals only on November 11, 2022 at 10:55AM PT (1:55PM ET) to Creditors/users' registered email addresses. (**Exhibit G and Exhibit H**)

4.) **Contractual Waiver and Laches:** While BlockFi may have possessed a contractual right to limit transfers from BlockFi Interest Account, they have waived their right in specific user circumstances through their own conduct by allowing transfers from the BlockFi Interest Account to Wallets, subsequently sending out confirmation emails for completion of such transactions (**Exhibit I**). Indeed, it was not until after November 14, 2022 that BlockFi finally paused transfers from the BlockFi Interest Account to Wallets through their Platform itself (**Exhibit J**).

## **SUMMARY**

The Creditors and a significant section of BlockFi Users will be grievously prejudiced and unconscionably put at a gross disadvantage resulting in an unfair deprivation of their personal property held in their BlockFi Wallets, if it is restored to a time and state as of November 10, 2022, 8:15 PM EST, contrary to BlockFi's own prior public representation for these reasons and the overall case facts and circumstances involved.

## **PRAYER**

- 1.) The Creditors pray that the Honorable Court deny the Debtors' Motion to this extent.
- 2.) The Creditors pray that the Honorable Court declare that the Creditors' BlockFi Wallet balances are current as shown as of today, which is the same as of November 23, 2022 when BlockFi publicly represented that all portal balances are accurate, and that be

returned to the Creditors in full, and fully enforce BlockFi's public representations to its users.

3.) The Creditors further pray that under absolutely no circumstances should BlockFi be able to renege on its earlier representations that they will be fully operational on November 11, 2022, and thus, the "Platform Pause Time Stamp" can be no earlier than November 11, 2022 at 10:55AM PT (1:55PM ET) as a blanket rule, which also matches the date/time when BlockFi notified the BlockFi users via email, the usual and standard method of communication.

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**EXHIBIT A**

2. The Debtors also seek to reconcile and adjust the User Interface (as defined below) to reflect the proper accounting of digital assets in the Wallet Accounts in connection with certain attempted transactions that took place following the Debtors' decision to pause all platform activity so that all clients are treated fairly. As described more fully in the First Day Declaration, the Debtors were subject to substantial exposure to FTX through the FTX Loan Agreement and FTX Option Agreement, as well as loans that the Debtors made to Alameda Research Ltd. Upon news of FTX's bankruptcy filing, the Debtors recognized that they could not operate their business as usual, and took swift, decisive action to protect their clients' interests and ensure equality of

treatment among similarly situated clients. Chief among these measures was the pause of account withdrawals as permitted under the Debtors' Terms of Service (the "Platform Pause"), which was publicly announced via the Debtors' Twitter account and implemented on the evening of November 10, 2022 at 8:15 p.m. (prevailing Eastern Time) (the "Platform Pause Time Stamp"). On November 11, 2022, FTX began filing for chapter 11 bankruptcy in the District of Delaware<sup>4</sup> and the Debtors published an update on their website and emailed all clients alerting them to the fact that the Debtors were limiting platform activity.<sup>5</sup>

3. The Platform Pause took effect the moment of the Platform Pause Time Stamp. Thereafter, a client's ability to effectuate a withdrawal, transfer, or trade on the platform was terminated in an effort to maintain the status quo for all clients' digital assets held on the platform as of the Platform Pause Time Stamp. In accordance with the Platform Pause, the Debtors immediately (a) ceased to record transactions in the U.S. Wallet Ledger and International Wallet Ledger and (b) discontinued the ongoing daily true-ups of the WLLC FBO Wallets, the International Vault Wallets, the U.S. Wallet Ledger, and the International Wallet Ledger (each as defined below), and ceased making digital asset transfers in connection therewith. Simply put, the Debtors' clients were unable to, and did not, effectuate any transactions on the BlockFi platform beginning the moment of the Platform Pause Time Stamp.

## EXHIBIT B

We are shocked and dismayed by the news regarding FTX and Alameda. We, like the rest of the world, found out about this situation through Twitter.

Given the lack of clarity on the status of FTX.com, FTX US and Alameda, we are not able to operate business as usual.

Our priority has been and will continue to be to protect our clients and their interests.

Until there is further clarity, we are limiting platform activity, including pausing client withdrawals as allowed under our Terms. We will share more specifics as soon as possible. We request that clients not deposit to BlockFi Wallet or Interest Accounts at this time.

We intend to communicate as frequently as possible going forward but anticipate that this will be less frequent than what our clients and other stakeholders are used to.

BlockFi

BlockFi @BlockFi  
7:16 PM · Nov 10, 2022  
3,337 Retweets 3,294 Quote Tweets  
11K Likes

Lord As... @Lord\_... · Nov 10  
Replying to @BlockFi  
eg wP

Frank Fl... @frank... · Nov 10  
Replying to @BlockFi  
Well. There it goes.

**EXHIBIT C**



BlockFi @BlockFi

...

We recognize, given the current market conditions,  
that this delay is less than ideal.

BlockFi will remain fully operational on 11/11 and all  
crypto transactions, including withdrawals, will  
continue as normal.

As always, @BlockFiSupport is available to answer any  
questions.

8:00 AM · Nov 10, 2022

**EXHIBIT D**

**Announcement**

**Crypto Withdrawals:** Crypto withdrawals are unaffected. All crypto withdraws scheduled to be processed on November 11 will occur under normal conditions.

**Wire Withdrawals:** Any wire withdrawal initiated after Thursday, November 10 at 2PM ET will not be processed until Monday, November 14.

**ACH:** ACH deposits and withdrawals may be delayed by two extra business days.

**Loan Processing:** Requests for crypto loan payment inquiries submitted after Thursday, November 10 at 2PM ET will not be processed until Monday, November 14. Crypto loan funding and crypto loan payment requests are unaffected and will be processed as normal.

BlockFi · November 10, 2022

52 replies · 40 retweets · 119 likes

BlockFi @BlockFi

Silvergate, our US-based banking partner, will be observing the federal holiday (Veterans Day) on November 11.

As a result of this planned third-party closure, ACH and Wire transactions scheduled for 11/11 will not process until 11/14.

8:00 AM · Nov 10, 2022

28 Retweets 12 Quote Tweets 110 Likes



BlockFi @BlockFi · Nov 10 · Replying to @BlockFi

**EXHIBIT E**

**BlockFi**

Products Institutions Private Client Resources Company Log In

← Back to blog

**FEATURED**

## Responses to Frequently Asked Questions

Published, 23 November, 2022

Share article

Back to blog

• Where can I find information about my account?

- You can continue to check the BlockFi app for accurate information regarding your account balances. We will continue to share updates regarding changes to our products through our official communication channels, including [Twitter](#) and our [blog](#).

**EXHIBIT F**

The screenshot shows the BlockFi dashboard. At the top, there are navigation links: BlockFi, Dashboard, Accounts (with a dropdown arrow), Fund, Withdraw, Borrow, Refer a friend, and a user icon with the number 55 and a dropdown arrow. Below the navigation, a large button labeled "Overview" with a circular arrow icon is visible. Underneath, the word "Balance" is followed by "\$0.00". At the bottom, there is a button labeled "Transfer".

**EXHIBIT G**

**Electronic Communication**

We, or our affiliated BlockFi entities, may be required to provide certain legal and regulatory disclosures, periodic statements and confirmations, notices, tax forms and other communications (collectively "Communications") to you in written form. By agreeing to these Terms, you consent to BlockFi delivering such Communications to you in electronic form, including e-mail. Consent for electronic delivery applies to every year the Communications are furnished. If you no longer have access to your account to receive the Communications in electronic format, then you may request the Communication in written form.

## EXHIBIT H

Important update to your account ▶

BlockFi <blockfi@blockfi.com> 1 message

To: apalmear@gmail.com

From: BlockFi <blockfi@blockfi.com>

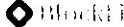
Date: Nov 11, 2022, 10:55 AM

Subject: Important update to your account

Message-ID: e.blockfi.com

Signed by: e.blockfi.com

Recently: Standard encryption (TLS) [Learn more](#)



Dear BlockFi Clients,

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As always, we want to provide important updates to you about our business as transparently, empathetically, and quickly as possible.

We are in the heartbreakin position of sharing the following news with you:

1. We are shocked and dismayed by the news regarding FTX and Alameda. We, like the rest of the world, found out about this situation through Twitter. Given the lack of clarity on the status of FTX.com, FTX US and Alameda, we are not able to operate business as usual.
2. Our priority has been and will continue to be to protect our clients and their interests.
3. Until there is further clarity, we are limiting platform activity, including pausing client withdrawals as allowed under our Terms. We will share more specifics as soon as possible. We request that clients not deposit to BlockFi Wallet or Interest Accounts at this time.

**EXHIBIT I**

Internal Transfer Completed from BlockFi Interest Account  
into BlockFi Wallet ▾

 BlackFI Support <support@blockfi.com>  
to me ▾

Nov 10, 2022, 11:52 PM ☆ ← :



Andre,

Your assets have been successfully transferred from your BlockFi Interest Account into your BlockFi Wallet. Please see the transaction details below.

If you did not initiate this request, please [contact us](#) or call us at 646-779-9688 during business hours (Monday - Friday 9:30am - 5pm ET). To learn more about BlockFi Wallet [click here](#).

**INTERNAL TRANSFER**

Date: 2022-11-11

Currency: ETH

Amount: [REDACTED]

Origin: BlockFi Interest Account

Destination: BlockFi Wallet

Thanks,

The BlockFi Team



**BlockFi Support** <support@blockfi.com>  
to me ▾

Nov 10, 2022, 11:59 PM ⭐ ← ⌂



**Andre,**

Your assets have been successfully transferred from your BlockFi Interest Account into your BlockFi Wallet. Please see the transaction details below.

If you did not initiate this request, please [contact us](#) or call us at 646-779-9688 during business hours (Monday - Friday 9:30am - 5pm ET). To learn more about BlockFi Wallet [click here](#).

**INTERNAL TRANSFER**

Date: 2022-11-11

Currency: USDC

Amount: [REDACTED]

Origin: BlockFi Interest Account

Destination: BlockFi Wallet

Thanks,

**The BlockFi Team**



**BlockFi Support** <support@blockfi.com>  
to me ▾

Fri, Nov 11, 12:00 AM ⭐ ↵ ⓘ



**Andre,**

Your assets have been successfully transferred from your BlockFi Interest Account into your BlockFi Wallet. Please see the transaction details below.

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**INTERNAL TRANSFER**

Date: 2022-11-11

Currency: BTC

Amount: [REDACTED]

Origin: BlockFi Interest Account

Destination: BlockFi Wallet

Thanks,

**The BlockFi Team**



**BlockFi Support** <support@blockfi.com>  
to me ▾

Fri, Nov 11, 12:00 AM ☆ ← ⌂



**Andre,**

Your assets have been successfully transferred from your BlockFi Interest Account into your BlockFi Wallet. Please see the transaction details below.

If you did not initiate this request, please [contact us](#) or call us at 646-779-9688 during business hours (Monday - Friday 9:30am - 5pm ET). To learn more about BlockFi Wallet [click here](#).

**INTERNAL TRANSFER**

Date: 2022-11-11

Currency: GUSD

Amount: [REDACTED]

Origin: BlockFi Interest Account

Destination: BlockFi Wallet

Thanks,

**The BlockFi Team**

 **BlockFi Support** <support@blockfi.com>  
to me ▾

Fri, Nov 11, 12:00 AM   



**Andre,**

Your assets have been successfully transferred from your BlockFi Interest Account into your BlockFi Wallet. Please see the transaction details below.

If you did not initiate this request, please [contact us](#) or call us at 646-779-9688 during business hours (Monday - Friday 9:30am - 5pm ET). To learn more about BlockFi Wallet [click here](#).

**INTERNAL TRANSFER**

Date: 2022-11-11

Currency: BUSD

Amount: [REDACTED]

Origin: BlockFi Interest Account

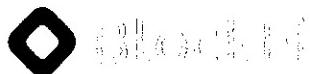
Destination: BlockFi Wallet

Thanks,

**The BlockFi Team**

BlockFi Support <support@blockfi.com>  
to me ▾

Nov 11, 2022, 12:00 AM ⭐ ⓘ



**Andre,**

Your assets have been successfully transferred from your BlockFi Interest Account into your BlockFi Wallet. Please see the transaction details below.

If you did not initiate this request, please [contact us](#) or call us at 646-779-9688 during business hours (Monday - Friday 9:30am - 5pm ET). To learn more about BlockFi Wallet [click here](#).

**INTERNAL TRANSFER**

Date: 2022-11-11

Currency: LTC

Amount: [REDACTED]

Origin: BlockFi Interest Account

Destination: BlockFi Wallet

Thanks,

**The BlockFi Team**

**EXHIBIT J**

Withdraw

X



Withdrawals are currently paused

Close

**CERTIFICATE OF SERVICE**

WE HEREBY CERTIFY that the foregoing document is being served this day

\_\_\_\_\_ on all counsel of record or pro se parties in a manner or procedure  
authorized by law.

---

By:

/s/ Andre Paim Carollo dos Santos



Mailing Address:

2943 McKinley Dr

Santa Clara-CA, 95051

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Email: apaimcar@gmail.com

Phone: (224) 789-0926



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2943 McKinley Dr.

Santa Clara - CA, 95

TO:

Attn: Hon. Chief Judge M

B. Kaplan (MBK)

Clarkson S. Fisher U.S. C

ourtroom #8

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